

**EXHIBIT F**

August 9 Hearing transcript.txt

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1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA

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4 v. 05 Cr. 621 (KMK)

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5 ALBERTO VILAR Hearing

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6 GARY TANAKA,  
6 Defendant.

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New York, N.Y.  
August 9, 2006  
9:45 a.m.

Before:

KENNETH M. KARAS

District Judge

MICHAEL J. GARCIA

United States Attorney for the

Southern District of New York

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New York, N.Y. 10007

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17 Q. And in looking for these other possible victims other than  
18 your experience in prior matters, which you stated in the  
19 affidavit, isn't it accurate that you had no specific knowledge  
20 or facts as to anyone other than the names you mentioned in the  
21 affidavit having been defrauded?

22 MS. McEVOY: Objection.

23 THE COURT: I am almost speechless. It is the same  
24 question. The point is she knows about certain alleged  
25 victims. She is referring from that there are others. That is  
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1 the point.

2 MS. HOFFMAN: Here is what I am getting at: In her  
3 generalized statement in the affidavit that what the magistrate  
4 should rely on is probable cause in addition to specific  
5 whatever the specific facts were that were in the affidavit,  
6 that her general broad experience should also be relied on for  
7 probable cause. So there is something not specified in the  
8 affidavit that is just sort of --

9 THE COURT: Whatever it is, A, the affidavit is in  
10 evidence; B, it was signed by a magistrate judge. So I am not  
11 sure where any of this is doing.

12 MS. HOFFMAN: I am looking to see from a credibility  
13 standpoint if she was truthful when she said that there were  
14 other things without specifying what they were.

15 THE COURT: I think you asked her that question and  
16 she said yes, and then you can argue presumably that you don't  
17 share her view. But asking her again and again and again there  
18 were no facts that supported every single client, or reason to  
19 believe that every single client had been defraud, that she had  
20 no specific information about other clients whose clients' list  
21 were seized for example, she conceded that.

22 MS. HOFFMAN: Fine.

23 THE COURT: Mr. Hoffman, I am at a loss why this is  
24 taking so long. You had an evening to prepare a recross.

25 MS. HOFFMAN: Frankly, I am trying to cut down  
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1 questions that I was going to ask.

2 THE COURT: My point is the same. That is what you  
3 should have been doing last night.

4 MS. HOFFMAN: I didn't know your rulings last night.

5 THE COURT: These are foreseeable to all of the  
6 interns in the back. I mean that with all respect --

7 MS. HOFFMAN: I appreciate that, your Honor.

8 THE COURT: -- to all the interns in the back.

9 BY MS. HOFFMAN:

10 Q. You also stated yesterday in answer to a number of

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11 questions that you had reason to believe that clients could  
12 have been defrauded and that was why you were clarifying your  
13 error as you indicated yesterday when you said there was no  
14 probable cause for certain things. Do you also equate reason  
15 to believe with probable cause, basically in your mind one in  
16 the same?

17 A. Yes.

18 Q. Thank you.

19 When you instructed the inspectors at the meeting that  
20 you described yesterday concerning their -- how they should  
21 handle the --

22 THE COURT: Are you talk U.K. or U.S.?

23 MS. HOFFMAN: U.S. search.

24 THE COURT: The briefing in the morning.

25 MS. HOFFMAN: The briefing in the morning.

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1 Q. The briefing in the morning, it is a fact, is it not, that  
2 you did not tell them that paragraph 1 of Attachment A should  
3 be in any way, shape or form limited by any of the other  
4 paragraphs, correct?

5 A. No, I did not.

6 Q. It is also a fact, is it not, that you did not tell them  
7 that they should equate when trying to understand the warrant  
8 they were operating under probable cause with reason to  
9 believe?

10 MS. McEVROY: Objection, relevance.

11 THE COURT: I agree. Sustained.

12 Q. Would it be accurate to say that you did not tell the  
13 agents at the briefing prior to the U.S. search that they  
14 should not take anything that was not helpful to the  
15 investigation?

16 A. No, I did not.

17 Q. Would it be accurate to say that when you were asked  
18 questions at the site of the search, during the search by  
19 people conducting the search, you did not say to them in answer  
20 to any of those questions, Do not take information unless it is  
21 helpful to the investigation?

22 A. No, I did not.

23 Q. And would it be accurate to say when you answered questions  
24 during the search of the other -- U.S. search of the other  
25 individuals when they were searching, you did not say to them

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1 that paragraph 1 of the Attachment A is limited and should be  
2 viewed as being limited by any of the other paragraphs?

3 A. No.

4 Q. You did not say that?



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5 A. No, I did not.

6 THE COURT: Let's wrap this up, Mr. Hoffman. It has  
7 been a long recross.

8 Q. You did say that you were asked questions by other  
9 inspectors during the eight or so hours that you were on the  
10 premises during the American search, correct?

11 A. Yes.

12 Q. Can you tell us to the best of your memory what inspector  
13 asked you what question?

14 MS. McEVROY: Objection, asked and answered.

15 THE COURT: Way beyond the scope.

16 Q. Do you remember being asked yesterday about all the  
17 activities you did in the eight hours you were there as to why  
18 you didn't have enough time to go through the red and black  
19 notebooks?

20 MS. McEVROY: Objection.

21 THE COURT: Sustained. It is not at all what she was  
22 asked.

23 Q. Do you remember being asked questions about going through  
24 some red and black notebooks?

25 A. Yes.

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1 Q. Do you remember saying there were 26 such notebooks that  
2 you seized?

3 A. Yes.

4 Q. And do you remember saying that you went through just a  
5 certain number of those?

6 A. Yes.

7 Q. And do you remember being asked about questions that I had  
8 asked you on cross-examination concerning the time that it took  
9 to do that?

10 A. Yes.

11 Q. And do you remember being asked yesterday if in fact what  
12 you did during the eight hours you were there in addition to  
13 going through those samples of those red and black notebooks?

14 MS. McEVROY: Objection.

15 THE COURT: That is not how she phrased it. That is  
16 not how the question was asked.

17 Q. Do you remember being asked how long you were there?

18 A. Yes.

19 Q. You said about eight hours?

20 A. Correct.

21 Q. And do you remember explaining what you did during those  
22 eight hours?

23 THE COURT: Why don't you get to the punch line.

24 MS. HOFFMAN: Okay.

25 THE COURT: Just get to the punch line.

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